

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

7791

FILE: B-185418

DATE: September 25, 1978

MATTER OF: Gardner Machinery Corporation; G.A. Braun,
Incorporated - Request for Reconsideration

DIGEST:

075-31

1. Prior decision denying protest on basis that evidence did not show restrictive specifications for laundry wash system is reversed since decision contained material factual error in stating that protester's automated washer/extractor laundry system was not available when RFP was issued; since record discloses protester's system was available and system equaled or exceeded Government's minimum needs, RFP was unduly restrictive of competition.
2. Although no corrective action is possible in present case since contract is completed, VA is being advised to take appropriate action to insure that future procurements for laundry wash systems contain specifications which will permit broadest field of competition by stating only Government's minimum needs.

G.A. Braun, Incorporated (Braun), requests reconsideration of our decision in Gardner Machinery Corporation; G.A. Braun, Incorporated, B-185418, September 15, 1976, 76-2 CPD 245, which held that the Veterans Administration (VA) specifications for a laundry wash system to be installed at the consolidated laundry, Veterans Administration Hospital, Salisbury, North Carolina, were not unduly restrictive of competition. The protest was based on the contention that the VA specifications which called for a "shellless wash system" were restrictive of competition on the grounds that other manufacturers such as Braun which produced an "automated washer/extractor system" would

have satisfied the Government's minimum needs and, therefore, exclusion of its system from consideration was unduly restrictive of competition.

VA argued that its minimum needs included the requirement for a shellless system and our decision indicated that the protesters had not presented evidence that the VA's position was without a reasonable basis and, therefore, we denied the protest. In our decision we stated that:

"Whether the shellless requirement was unduly restrictive depends on whether this system constituted a true reflection of VA's minimum needs. When the RFP was issued VA was of the opinion that the shellless system represented an improvement in the state-of-the-art and that its degree of operating automation represented the agency's minimum needs. * * *"

Braun's request for reconsideration is based on its contention that our decision is erroneous as a result of our reliance on erroneous information. Braun has made several submissions to our Office in response to the VA's views. Braun contends that if the correct factual information had been known our Office would have agreed with Braun's position that the specifications were unduly restrictive. In particular, Braun refers to the following portion of our decision which allegedly contains erroneous information:

"However, in connection with resolution of this protest, at Gardner's request, we visited a civilian hospital where Gardner had recently installed a Braun "automated" washer/extractor system. In addition, we compared the Braun system with an 'old' shellless system located at the nearest VA hospital. It was concluded that while the systems were not easily compared in view of the differences in design, the state-of-the-art washer/extractor system was more efficient.

than the shellless system examined. However, the Braun equipment examined apparently was not available at the time of issuance of the RFP, and the shellless system examined apparently was not as advanced as that offered for this procurement. * * *

Braun states that its equipment examined at the St. Joseph's Hospital at Lorain, Ohio, was available at the time of the issuance of the RFP and the statement to the contrary in our decision is erroneous. Braun also contends that the statement that the shellless system examined at the VA Hospital, Brecksville, Ohio, apparently was not as advanced as that offered for this procurement is also not correct. Braun states that this installation had Ludell shellless washers discharging onto a wet belt conveyor, transporting to a strike extractor discharging to a belt conveyor for transporting to a conditioning tumbler. This is the equipment which Ludell proposed for the VA Hospital, Salisbury, North Carolina, and Braun asserts that it should not be called an "old" shellless system unless Ludell offered an "old" shellless system to VA for its Salisbury facility.

The record indicates that Braun's automated washer/extractor laundry system was available and operational at St. Joseph's Hospital in March 1975, which is approximately 6 months prior to the time the subject RFP was issued. Our examination of Braun's system at St. Joseph's Hospital resulted in our view that its automated washer/extractor system was more efficient than the Ludell system. The Ludell system was proposed for the subject procurement in Salisbury, North Carolina, and the record indicates that the VA thought the proposal offering this system met its minimum needs. It also appears from the VA and GAO representatives' field trip to St. Joseph's Hospital that Braun's automated washer/extractor system demonstrated the degree of automation which VA considered part of its minimum needs for an "automated washroom system."

Further, in our prior decision, we noted the VA indicated that its installation of a washer/extractor system in the laundry at Alexandria, Louisiana, would be evaluated and compared to the shellless system. We suggested that VA then determine if adequate justification existed to eliminate all systems involving use of manual labor during the wash cycle. Subsequent to our decision, the VA submitted to our Office a copy of a report dated November 15, 1976, prepared by a professional engineer entitled "Comprehensive Analysis of VA Laundry Systems." This report compared the automated washer/extractor system in operation at Alexandria, Louisiana, with the shellless systems used at Salisbury, North Carolina, and Brecksville, Ohio. An examination of the report discloses that the automated washer/extractor system at Alexandria was an acceptable system to the VA and was more efficient in some respects and resulted in lower utility costs than the shellless system. Although the VA states in its letter of May 5, 1978, that the Braun system (washer/extractor) would require additional personnel, the engineer's report indicates that the washer/extractor system required no more manual labor than the shellless system examined. This report supports the position in our prior decision that Braun's automated washer/extractor system at Lorain was at least as efficient as the shellless system which was observed at Brecksville.

Our Office has recognized that procurement agencies are required to state specifications in terms that will permit the broadest field of competition within the minimum needs required and not the maximum desired. See Washex Machinery Corporation, B-191224, July 20, 1978, 78-2 CPD 54, and cases cited therein. It is our view that a specification that dictates the manner in which the Government's requirements be fulfilled, beyond stating the Government's minimum needs, is restrictive of competition. See Charles J. Dispenza & Associates, et al., B-181102, B-180720, August 15, 1974, 74-2 CPD 101.

Since the Ludell system met VA's minimum needs and Braun's system was at least as efficient, it follows that Braun should have been permitted to submit a proposal offering its system for the subject procurement. Our decision contained a material mistake

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of fact in stating that Braun's equipment was not available at the time of issuance of the RFP and our reliance on this erroneous statement resulted in our concluding that the record did not indicate any restrictive specifications. We now believe that the VA's specifications contained in the subject RFP were restrictive since the Government's actual needs could have been satisfied by something other than a shellless system such as Braun's automated washer/extractor system. Therefore, our decision of September 15, 1976, is reversed.

Corrective action in this case is not possible since the contract has been fully completed. However, by letter of today to the Administrator of Veterans Affairs, we are recommending that appropriate action be taken to insure that future solicitations for laundry wash systems permit the broadest field of competition consistent with the Government's actual needs, and we have requested that the Administrator inform us of the action taken pursuant to our recommendation.


Acting Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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B-185418

September 25, 1978

The Honorable James G. Martin
House of Representatives

Dear Mr. Martin:

Enclosed is a copy of our decision of today concerning the request of G.A. Braun, Incorporated for reconsideration of our decision in Gardner, Machinery Corporation; G.A. Braun, Incorporated, B-185418, September 15, 1976, 76-2 CPD 245. Our decision of September 15, 1976, is reversed to the extent indicated since the decision contained a material factual error which affected our prior conclusion.

Sincerely yours,

R. F. K. 11/11
Acting Comptroller General
of the United States

Enclosure



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

*4 Approved
P.L.I.*

B-185418

September 25, 1978

The Honorable Max Cleland
Administrator of Veterans Affairs
Veterans Administration

Dear Mr. Cleland:

Enclosed is a copy of our decision of today concerning the request of G.A. Braun, Incorporated for reconsideration of our decision in Gardner Machinery Corporation; G.A. Braun, Incorporated, B-185418, September 15, 1976, 76-2 CPD 245. Our decision of September 15, 1976, is reversed to the extent indicated since the decision contained a material factual error which affected our prior conclusion.

We believe that appropriate action should be taken by the Veterans Administration to preclude the issuance of future solicitations which contain restrictive specifications for laundry systems. Please advise our office of any action taken in this regard.

Sincerely yours,

[Handwritten Signature]
Acting Comptroller General
of the United States

Enclosure